

# STEPTOE & JOHNSON LLP

ATTORNEYS AT LAW

1330 Connecticut Avenue, NW  
Washington, DC 20036-1795

Telephone 202.429.3000  
Facsimile 202.429.3902  
www.steptoel.com

David H. Coburn  
(202) 429-8063  
dcoburn@steptoel.com

August 4, 2003

## VIA HAND DELIVERY

Ms. Victoria Rutson  
Chief  
Section of Environmental Analysis  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20402-0001

**Re: Finance Docket No. 34284 -- Southwest Gulf Railroad Company --  
Petition for Exemption from 49 U.S.C. § 10901 to Construct and  
Operate a Rail Line In Medina County, Texas**

Dear Ms. Rutson:

By this letter, petitioner for exemption Southwest Gulf Railroad ("SGR") replies to those public comments that have been submitted to SEA in recent weeks, following the June 12, 2003 public meeting on this matter in Hondo, TX. SGR is aware of comments that are adverse to the rail line, as well as comments filed in support of the rail line. In many cases, comments were submitted by multiple family members echoing one another. In other cases, comments were filed by persons who do not live in the immediate vicinity of the line. Further, many of the comments address concerns that relate to the quarry that SGR's parent, Vulcan Materials Company, intends to develop in Medina County. The development and operation of that quarry is outside the scope of the Board's jurisdiction.

SGR will reply here only to those comments that were directed to the rail line and to environmental issues within the appropriate ambit of consideration by SEA in connection with the NEPA review process. The comments repeatedly raise many of the same issues, and virtually all of them fall into the classic "not in my backyard" category. None of the comments come close to justifying a finding that the railroad's impacts are so significant and adverse that the line should not be constructed or that its impacts would outweigh the adverse impacts of a no-build alternative that would result in significant trucking operations in the area.

SGR will organize this reply issue by issue, addressing those issues that were most frequently raised. SGR would be pleased to provide additional information to SEA and URS on any specific issue upon request.

#01-259  
24  
2003 AUG -4 A 10:40  
SECTION OF ENVIRONMENTAL ANALYSIS  
SURFACE TRANSPORTATION BOARD  
JCS

1. **Flooding.** Some local residents are concerned that the line, which crosses a few ephemeral streams, might result in flooding. The area of Medina County where the line is being planned is already prone to flash floods during occasional periods of heavy rain. The rail line would not exacerbate this pre-existing situation. The preferred alternative (as well as each of the other alternatives) were the product of preliminary engineering evaluations on the basis of which the optimal stream crossing locations were identified. In the case of Quihi Creek, which is most often mentioned by project opponents as a potential flooding source, the proposed crossing is at a point of minimal flow, upstream from a point where that creek intersects with other creeks. If the Board approves the preferred alignment, SGR intends to undertake more detailed engineering work as required to design the trellis bridges that will be used for the stream crossings in a manner that would not exacerbate pre-existing flooding risks. SGR has no reason to believe, based on the work performed to date, that there are any unique issues regarding flooding here or that sound engineering practices cannot address the concern that the line would worsen the existing situation. Further, an SGR representative has toured the relevant area with the Medina County Flood Administrator and his assistant. SGR is committed to keeping the Administrator, as well as (to the extent appropriate) the Corps of Engineers and other relevant officials and agencies, informed as to its plans for stream crossings to ensure that any legitimate water control issues are properly addressed.

2. **Geological Faults/karst features..** SGR has carefully examined the geology of the area and concluded that there are no active geological faults in the area. The fault which is responsible for the uplands where the quarry is located, which also passes through San Antonio, has been inactive for millions of years. SGR also believes that studies of the area will confirm its determination, based on geological review of the area, that karst features do not present a problem for rail line construction in the area.

3. **Traffic Issues.** Claims have been made that the crossing by the rail line of certain county roads and one state farm-to-market road (FM 2676) will create a dangerous traffic situation, and highway delays. SGR has been in consultation with the Texas Department of Transportation concerning the nature of crossing protection appropriate for FM 2676 and has retained a consultant to advise it with respect to crossing the County Road 4516. SGR is committed to safety and will ensure that these crossings, and the other planned crossings, are properly protected pursuant to applicable safety standards. As to delay, it bears noting that the railroad would be constructed in a very rural area (not near Hondo or Castroville) and that traffic volumes on the roads that will be crossed are light. For example, the most heavily traveled of the crossed roads (FM 2676) carries on average less than 520 vehicles/day according to the most recent TexDOT statistics. Thus, the number of vehicles impacted by delay will not be significant. Further, assuming trains that are about 100 cars long moving at about 20 mph, the delay at each crossing per train will not exceed about 3-4 minutes/train. This is comparable to delays regularly experienced at hundreds of crossings of major rail lines in Texas, including numerous crossings of city streets by the UP line in Hondo.

4. **Cultural Resources.** Claims that the railroad will impact, or even destroy, historic resources in the area around Quihi have been vastly overblown. These claims seem to be based on the notion that the railroad will cause flooding in the area, which as stated above is not true. The rail line will not directly impact any historic homes or other cultural resources and SGR does

not believe that there are likely to be any significant indirect impacts on such resources. SGR is sensitive to the need to preserve the area's history. The Schweers Historical Foundation has, in fact, stated its support for the project. Further, any concerns about the railroad's impact on historic resources will be addressed during the course of the on-going environmental and Section 106 historical review processes, in which the Texas Historical Commission and other interested entities will have ample opportunity to review and comment on the rail line's impacts.

**5. Noise/health issues.** Some parties complain that the rail line will bring noise to a quiet area of the countryside, while others claim that the line will impair the health of nearby residents. SGR does not deny that trains (like trucks and farm equipment) make some noise. But if that were a disqualifying feature of trains, no new railroads would be constructed. SGR's line will not pass any closer than 400 feet to any residence and will not pass near many residences at all in the very rural area in which it would be built. Nor will it pass near any schools, churches, parks, hospitals or other non-residential noise receptors. SGR believes that further studies of the noise impacts of its line by SEA will underscore that such impacts will not be significant. Further, SGR is not aware of any link between a railroad and public health, and has no basis for believing that its railroad will degrade the health of persons living in the area. Emissions from the railroad will be minimal -- SGR will be operating only 4 trains/day for the foreseeable future and this is well below SEA's 8 train/day threshold for more intensive air quality analysis in Medina County, an air quality attainment area. In fact, the railroad will generate a much lower level of emissions than would the large number of trucks that would be needed were the line not built. In addition, rail operations at other quarries provide demonstrative proof that the limestone dust feared by some commenters will not materialize.

**6. Impacts on Wildlife and Agriculture.** Claims have been made that the rail line will adversely impact wildlife, impair the quality of hunting in the area and interfere with irrigation pipes and area agricultural pursuits. None of these claims have been sustained with any verifiable evidence. A thorough Biological Assessment has been completed in coordination with the U.S. Fish and Wildlife Service and it concludes that the rail line (and quarry) will not interfere with any threatened or endangered species. Further, SGR is not aware of any study that has shown that the rail line will impair hunting in the area, and is not aware of any reason why this should be the case in comparison, for example, to roads in the area. As to agriculture, SGR intends to take steps to design its line so that it will not interfere with irrigation pipes or with wells that are used for agricultural or other purposes. In addition, it is intended that the line will, to the greatest extent possible, be built along property boundary lines so that agricultural lands will not be unnecessarily bisected. The routing preferred by SGR will traverse fewer properties than alternative routings that have been considered. Further, SGR understands that vibration impacts of its line, which it does not expect to be significant, are being carefully reviewed.

**7. Impacts to Aquifer.** The proposed rail line would not impact the Edwards Aquifer Recharge Zone as all of the rail line except the connection with the quarry would be located outside the recharge zone, including fueling and maintenance facilities. The rail line will not, directly or indirectly, have any adverse impact on the Aquifer, and will be constructed and operated consistent with the requirements of the Edwards Aquifer Authority, which is responsible for aquifer issues. SGR and Vulcan have consulted with that Authority and intend to continue to do so going forward to ensure that water quality is not impaired by the rail line.

**8. Quality of Life Issues.** SGR and Vulcan intend to be good neighbors, just as Vulcan is in many rural areas in Texas and other states where it operates quarries. The rail line will support the quarry and other businesses, bringing much needed jobs and tax revenues to an area that currently offers few economic opportunities for residents. Some area residents believe that the rail line will reduce their ability to subdivide their property for future home sales or will degrade the general value of the area. SGR does not concur that a line that will operate 4 trains/day will have such impacts or that any such impacts outweigh the economic benefits to the area. Further, some opponents raise the specter of their community being destroyed by an influx of SGR and perhaps Vulcan employees who they fear will not necessarily be able to afford the expensive houses that they envision for the area. They are concerned that their plans to subdivide their property and sell it for "high-end" homes may thus be threatened by those who will fill new jobs in Medina County. The efforts of these relatively wealthy area landowners to inject a form of class warfare into this environmental review should be seen for what it is and summarily rejected.

**9. Need for Line/Eminent Domain.** SGR's line is designed to support the quarry that Vulcan plans for Medina County, and to transport freight for other businesses that locate in the area. Were the line not built, the quarry would nonetheless be developed as there is a growing need for the aggregate and other products it will generate. To state the obvious, Vulcan would not develop the quarry were there no market for its products. However, without a rail line hundreds of trucks would be needed to transport the quarry's product over 7 miles to the UP line, where a rail loading facility would need to be constructed. In addition, SGR's potential exercise of eminent domain rights, aside from being a highly speculative proposition at this time, is not in SGR's view an appropriate issue for consideration by SEA in its study of the environmental impacts of the SGR line. Should the Board allow the construction of the line, SGR will negotiate in good faith with those landowners whose property it may need for the line.

Again, SGR will be pleased to respond to any questions that SEA may have concerning these or other matters.

Sincerely,



David H. Coburn  
Attorney for Southwest Gulf Railroad  
Company

cc: Rini Ghosh, SEA  
Jaya Zyman-Ponebshek, URS  
U.S. Senator John Cornyn  
U.S. Representative Henry Bonilla  
Texas Senator Frank Madla  
Texas Representative Timeteo Garza  
Jim Barden, County Judge, Medina County  
Royce Hartman, Commissioner Pct. 1, Medina County  
Medina County Economic Development Committee  
Ed Fischer, Mayor City of Hondo  
Hondo Chamber of Commerce